

REMARKS

Applicants respond to the Office Action of October 31, 2002, for which a three month period of response was given. Claims 1-8 and 10-19 are pending in the application. In view of the following remarks, Applicants respectfully request allowance of claims 1-8 and 10-19. Claim 1 has been amended to recite that skin layer B is in contact with core layer A. Support for this amendment may be found in the specification, for example, at page 9, lines 16-17. Claims 1, 11 and 15 have been amended by replacing the limitation "soft polar additive" with an additive from the group consisting of ethylene vinyl acetate copolymer, ethylene methyl acrylate and acrylonitrile butadiene rubber. Support for the amendment may be found in the disclosure, for example, at page 11, lines 2-12. Claim 11 has further been amended to correct a grammatical mistake entered during the preliminary amendment. Claim 17 has been amended to properly depend from independent claim 11 and for a grammatical correction. Support for the amendment may be found in the specification, for example, at page 14, lines 24-25. In view of the following remarks, Applicants respectfully request allowance of claims 1-8 and 10-19.

Applicants call attention to the error on form PTO-326 of Paper 3 in which the Examiner indicated claims 1-19 are pending in the application. Applicants submitted a preliminary amendment along with the transmittal of the above-identified application on January 22, 2002. Upon entry of the preliminary amendment, the correct pending claims in the application should be 1-8 and 10-19. Applicants request confirmation that the preliminary amendment was entered and that the current office action takes the amendment into account. In the event that the Examiner has in fact entered and considered the amendment but erroneously entered the number of pending claims, consideration of the following remarks and allowance of claims 1-8 and 10-19 is respectfully requested.

The Examiner has rejected claims 1-8 and 10-19 under 35 U.S.C. § 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the invention. Specifically, in claims 1, 11, and 15, the Examiner has stated that it is not understood what is meant by the limitation "soft polar additive." The term soft polar additive has been deleted from the claims and

replaced with specific embodiments of the invention. In view of the amendments to claims 1, 11 and 15, withdrawal of the rejection is respectfully requested.

The Examiner has rejected claims 1-8 and 10-19 under 35 U.S.C. § 102(e) as being anticipated by Idlas (US 5,759,648). The Examiner contends that Idlas teaches a halogen-free, multi-layered shrink film comprising a first layer (layer 1 in the reference) comprised of a copolymer of propene and at least one α -olefin. The Examiner further contends that the second layer (layer 2 in the reference) is comprised of a copolymer of ethylene and at least one α -olefin, a copolymer of propene, and other possible components. The Examiner further contends that a third layer (layer 5 in the reference) includes a copolymer of ethylene and an α -olefin, ethylene vinyl acetate and other possible components. Claim 1 has been amended to recite that skin layer B, core layer A and printable layer C are in successive contact. The layers referred to by the Examiner in the §102(e) rejection are Idlas' layers 1, 2 and 5. Idlas teaches a construction wherein layers 1 and 2 are necessarily separated from layers 4 and 5 by a layer composed only of ethylene vinyl alcohol polymer and an optional amount of nylon. In view of the amendment to claim 1, the reference does not anticipate claims 1-8 and 10.

Regarding independent claim 11, the core layer A is recited as comprising a blend of (1) a copolymer of ethylene or propylene with an alpha olefin and (2) a homopolymer of an olefin. Idlas fails to disclose this composition in any of layers 1, 2, 4 or 5. Rather, Idlas' layer 1 recites a copolymer of propylene and an α -olefin but fails to disclose a blended homopolymer; layer 2 recites a blend of at least three copolymers but fails to include a homopolymer of an α -olefin; layer 4 mimics the composition of layer 2; and layer 5 recites two to three copolymers but fails to disclose a blended α -olefin homopolymer. Applicants submit that claims 11, and therefore claims 12-19 are not anticipated by the reference. Withdrawal of the rejection is believed to be warranted and is respectfully requested.

Claims 3-8 and 10-17 have been rejected under 35 U.S.C. §103(a) as unpatentable over Idlas (U.S. Patent 5,759,648). The Examiner contends that it would have been obvious to modify Idlas' disclosed layers to place a butene content of 3 to 20% in core layer A or to modify layers in the reference by blending resins to modify the properties of the film to render the film better intended for

shrinkability, puncture resistance, printability, toughness or abrasions resistance because each of these properties is taught by Idlas. Applicants submit that a *prima facie* case of obviousness has not been established by the Examiner.

Idlas discloses a multilayer film having low oxygen and water vapor permeability for packaging, pasteurizing or cooking foodstuffs, especially meat products. Disclosed benefits of the film include high delamination resistance, low temperature heat shrinkability, resistance to degradation by food acids, salts and fat, high shrinkage values at 90°C or lower, and good heat sealability. Idlas teaches the following layers: the first layer is a heat seal layer comprised of a propylene copolymer that may have its interior layer corona treated; the second layer is an unusually thick adhesive layer directly adhered to either side of the core layer; the core, or third layer, is an ethylene vinyl alcohol layer that provides the barrier properties of the film. In all embodiments, the construction disclosed by Idlas is symmetrical so that there are two outer layers (the first and fifth layers) overlying and underlying the core layer and two intermediate layers (second and fourth layers) therebetween. The core (third) layer is comprised of a minimum of 80% ethylene vinyl alcohol in order to maintain the oxygen and water barrier properties and may contain up to a maximum of 20% nylon. Idlas teaches that it is essential that the multilayer film contains at least five layers. The mandatory succession of the layers is disclosed at column 8, lines 2 - 7 as follows:

These five essential layers are termed the first layer, the second layer, the third layer, the fourth layer, and the fifth layer. The first layer and fifth layer are disposed on opposing sides of the third layer and are preferably attached thereto by the second and fourth adhesive layers, respectively. These five layers are essential to the film of this invention.

Layer three, the core layer, is composed of only ethylene vinyl alcohol and an optional amount of nylon. Idlas would discourage a construction wherein this layer is removed. The Examiner contends that Idlas teaches that blending resins such as ethylene vinyl acetate and polypropylenes within the layers would render the film better for some intended use, such as shrinkability or printability. Applicants believe the Examiner's contention is without merit. In view of the amendment to claim 1, Idlas makes no teaching or suggestion that the reference construction would be improved by

removal of the ethylene vinyl acetate core layer. Removal of this layer defeats Idlas' desire for a multilayer film for wrapping food or other items wherein the film exhibits exceptional resistance to gas permeability. Withdrawal of the rejections to claims 3-8 and 10 is believed to be warranted and is respectfully requested.

Regarding independent claim 11, Applicants submit that Idlas fails to teach or suggest that a blend of a copolymer of ethylene or propylene and a homopolymer of an α -olefin would be desirable. In his rejection, the Examiner has equated Applicants' core layer to reference layers 2 or 4. As indicated above, Idlas discloses that adhesive layers 2 and 4 of the reference construction are composed of a blend of three to four copolymers of ethylene and a second component. Idlas states that this combination provides good interlayer adhesion characteristics to the multilayer structure. Idlas makes no suggestion that either of the adhesive layers 2 or 4 would be a suitable substitute for the reference core layer. Idlas further fails to suggest that modification of the adhesive layer by removal of at least two-thirds of the recited copolymers and replacement with a single homopolymer would yield a polymeric blend with advantageous properties. A change of this magnitude would be necessary and is seemingly contended by the Examiner as being suggested in the reference. Applicants submit that Idlas does not make this or any similar suggestion. It is believed that claim 11 and therefore claims 12- 17 are not obvious in light of Idlas. Withdrawal of the rejections believed to be warranted and is respectfully requested.

Claims 18 and 19 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Idlas in view of Call (US 4,756,415). The Examiner contends that Idlas teaches all that is claimed in claims 16 and 17, but fails to specifically teach the film for use in packaging a battery. Applicants respectfully disagree with the Examiner's contention. As set forth above, Idlas does not teach the multilayer film claimed by Applicants, and Call does not cure the deficiencies of Idlas. Specifically, Call discloses a shrink wrap enclosure for battery storage and transport to prevent the corrosive effects of battery leakage or spillage. The enclosure comprises the shrink wrap material, a battery terminal and vent cover protection pads. Call makes a brief statement that shrink film may be polyethylene but does not teach or suggest the multilayered film claimed by Applicants. Furthermore, Call does

not teach or suggest modifying the multilayer film of Idlas to arrive at Applicants' claimed multilayered film. Applicants respectfully request withdrawal of the rejections of claims 18 and 19.

In view of the foregoing remarks, Applicants respectfully request allowance of claims 1-8 and 10-19. Applicants believe that no fees are due with the filing of this paper. However, if it is determined that any fees are required, Applicants request the Commissioner to charge those fees to deposit account #18-0988, Attorney Docket AVERP2544USA.

Respectfully submitted,

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APPENDIX

Changes to the claims are shown below. Added material is underlined; deleted material is in brackets.

1. (Twice Amended) A halogen-free, multilayered heat shrink film comprising (A) a core layer comprising a copolymer of ethylene or propylene with an alpha olefin containing from about 3 to about 12 carbon atoms, the core having an upper and lower surface, (B) a skin layer having an upper and a lower surface wherein the lower surface of the skin layer contacts [on] the upper surface of the core layer, wherein the skin layer comprises a polyolefin or polyolefin blend and (C) a printable layer having an upper surface and lower surface, and comprising a blend of a polyolefin and an [soft polar] additive selected from the group consisting of ethylene vinyl acetate copolymer, ethylene methyl acrylate and acrylonitrile butadiene rubber, wherein the upper surface of the printable layer is in contact with the lower surface of the core layer, and wherein the shrinkage of the film is at least about 30%.

11. (Twice Amended) A halogen-free, multilayered heat shrink film comprising (A) a core layer comprising a blend of (1) a copolymer of ethylene or propylene with an alpha olefin and (2) a homopolymer of an olefin, and having an upper and lower surface, (B) a skin layer on the upper surface of the core layer, wherein the skin layer comprises a polyolefin homopolymer [of] or a blend of a polyolefin homopolymer and a copolymer of ethylene or propylene and an alpha olefin and (C) a printable layer having an upper surface and a lower surface wherein the upper surface of the printable layer is in contact with the lower surface of the core layer, wherein the printable layer comprises a blend of a polyolefin an [soft polar] additive selected from the group consisting of ethylene vinyl acetate copolymer, ethylene methyl acrylate and acrylonitrile butadiene rubber, and wherein the shrinkage of the film is at least about 35%.

15. (Amended) The film of claim 11 wherein the polyolefin is a polypropylene or polyethylene and the [soft polar] additive is ethylene vinyl acetate.
17. (Amended) An article encapsulated with a multilayer heat shrink film of claim [10] 11.

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